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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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1002 CIP III

7427

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08/20/2008

EXAMINER

KESACK, DANIEL

ART UNIT

PAPER NUMBER

3691

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/044,075		LIKOUREZOS ET AL.	
	Examiner		Art Unit	
	Daniel Kesack		3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2008.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 12, 16, 17, 27, 32, 40, 41, 44, 47, 49, 55, 61, 62 and 70-113 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 12, 16, 17, 27, 32, 40, 41, 44, 47, 49, 55, 61, 62, 70-113 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/01/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Applicant's amendment after non-final rejection, filed April 1, 2008. The amendments to the claims have been entered, and Applicant's remarks have been fully considered. Claims 1, 2, 12, 16, 17, 27, 32, 40, 41, 44, 47, 49, 55, 61, 62, 70-113 are currently pending. The rejections are as stated below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 12, 16, 17, 27, 32, 40, 41, 44, 47, 49, 55, 61, 62, 70-113 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 112 and 113, The dependent claims do not contain all the limitations of the parent claim from which they depend. Specifically, it is not clear how the claims can perform "providing a payment page", and "receiving authorization" as in claim 106, which the dependant claims further narrow the parent claims by reciting that these steps are not performed. Dependant claims 112 and 113 must include all the steps of the parent claim, and therefore the claims are rendered indefinite. Examiner notes that

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while Applicant's remarks allege that claims 112 and 113 are cancelled, the claims are listed as previously presented in the listing of claims, and are therefore considered pending, and are rejected accordingly.

Claims 1, 2, 12, 16, 17, 27, 32, 40, 41, 44, 47, 49, 55, 61, 62, 70-113 are rendered indefinite because there is a lack of antecedent basis in the claims. The independent claims have been amended to recite that the accounts store "actual funds". Subsequently, within the independent claims and within dependant claims, the claims recite deducting, transferring, loaning, and paying funds from the account. It is not clear if these funds are the "actual funds" which were previously recited. Applicant has amended the claims to recite that "actual funds" are storing in the account, but subsequent actions are preformed on "funds". It is not clear what is meant by "actual funds" as opposed to the recited "funds". If they are the same, it is requested that Applicant use consistent terminology. Furthermore, since it is not clear what is meant by "actual funds", Examiner will consider "actual funds" to be any form of money or a spendable value.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 1, 2, 12, 16, 17, 27, 32, 40, 41, 44, 47, 49, 55, 61, and 72-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over German et al., U.S. Patent No. 7,177,836, in view of Rowe, U.S. Patent Application Publication No. 2002/0029339.

Claims 1, 2, 12, 16, 17, 27, 32, 40, 44, 47, 49, 55, 61, 62, 72, 73, 75-78, 81, 82, 85-95, 97-110, German discloses a system and method for facilitating transactions between consumers over the internet, comprising receiving informational data from users via at least one web page accessible via at least on web page of the electronic auction web site (column 21 line 60 – column 22 line 35), creating a plurality of payment accounts configured for storing actual funds therein and corresponding to a plurality of users of the electronic auction web site using the information data received via at least one web page accessible via the at least one web page of the electronic auction web site (column 22 lines 19-35), linking said plurality of payment accounts to at least on computing device of the electronic auction system (column 15 lines 21-28, 52-61), determining the conclusion of the auction sale by the electronic auction system (column 9 lines 33-37 and column 22 lines 52-59), sending an email by the electronic auction

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system to the winning bidder and receiving, via the email, at least one input from the winning bidder indicating an initiation to effect payment to the seller (column 22 lines 60-65), providing a payment page to the winning bidder after receiving the input from the winning bidder, said payment page displaying the amount of funds to be deducted from a payment account of the plurality of payment accounts corresponding to the winning bidder, and receiving authorization from the winning bidder to proceed with effecting payment to the seller (column 23 lines 19-36), deducting funds from the payment account storing actual funds therein and corresponding to the winning bidder, and using at least a portion of the deducted funds to effect payment to at least the seller, wherein the method for effecting payment does not require any interaction between the winning bidder and the seller (column 2 lines 52-55), and using at least another portion to effect payment to an operator of the electronic auction site.

German fails to teach creating the payment account, and displaying a link for providing access to the payment account for viewing the amount of funds stored therein.

Rowe discloses a system and method for facilitating monetary and commercial transactions, wherein a user establishes a payment account with an account provider for storing funds therein (paragraphs 29-31) and for viewing account balances on the provider website (paragraph 83). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of German to include the account creation and balance checking features of Rowe because German is concerned with combining the transaction facilitation steps with the payment steps, and keeping them seamless from the point of view of the consumers. Having the

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account management features built into the features provided by transaction facilitator of German would further streamline the payment and transaction processes, because the consumer would not need to establish the account with a third party before participating in the transaction.

Claims 41, 74, 83, German and Rowe fail to teach investing the funds and transferring a portion of the funds earned by investing to the buyer's account. Official Notice is taken that paying interest to an account holder on funds held in the account is old and well known in the art. Financial institutions which hold a customer's money regularly invest the money and return a portion of the money to the account holder as an interest payment. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teaches of German and Rowe to include investing the funds and returning a portion to the buyer because it provides incentive for the buyer to use the service and hold funds in the account, and it provides the account provider with an additional source of income.

Claims 79, 80, 84, 96, 111, German teaches the payment step comprising extending a line of credit to the buyer (column 7 lines 4-27).

2. Claims 62, 70, 71, are rejected under 35 U.S.C. 103(a) as being unpatentable over German et al., in view of Rowe, as cited above, and further in view of "Ask the Maven".

German and Rowe fail to teach notifying a plurality of users that a buyer purchased the at least one item prior to any bids being received by the electronic commerce system.

"Ask the Maven" teaches eBay's "Buy It Now" feature, in which an item is purchased by a buyer prior to any bids being received by the eBay. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of German and Rowe to include this feature because German teaches the transaction facilitator being eBay, and "Maven" teaches a feature of eBay.

Response to Arguments

Applicant's arguments filed April 1, 2008 have been fully considered but they are not persuasive.

Claim 62, Applicant's newly added language is regarded as non-functional descriptive material, and is not given patentable weight when distinguishing the invention over the prior art. The step recites transferring funds from one payment account to the other. The newly added language recites wherein the payment accounts have been created using informational data. Examiner is of the opinion that step of transferring funds is not further limited by how the account was created. The creation of the accounts is not positively recited, and therefore is not a limitation of the claimed

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method, but rather non-functional descriptive material detailing the account involved in the transfer. As such, the limitation is not given weight. If Applicant would like such language to be given weight for patentability, Examiner respectfully suggests reciting the limitation as a "creating a payment account..." step.

Claim 88, Similar to the argument regarding the newly added limitations of claim 62, the newly added language does not further limit the step of deducting funds.

Claim 97, Similar to the argument regarding the newly added limitations of claim 62, the newly added language does not further limit the step of determining at least one payment account from a plurality of payment accounts.

Claims 82, 86, Similar to the argument regarding the newly added limitations of claim 62, the claims recite structural elements of the system (database, server, etc.). The newly added language which recites how the accounts are created does not further limit the claimed structure of the system. This recitation is regarded as non-functional descriptive material, and is not given weight for determining patentability over the prior art.

Claim 106, The claim language recites the limitations in the alternative. The claim recites "receiving, via the payment page, authorization to at least one of deduct actual funds from a payment account corresponding to the buyer and loaning funds..."

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As recited above, the reference teaches receiving authorization for deducting funds, and therefore meets the claimed limitations. Furthermore, the claim recites "deducting funds from the payment account corresponding to the buyer if the payment account has sufficient funds, loaning funds if the payment account has zero funds or deducting funds if the payment account has greater than zero funds..." Since the reference teaches at least deducting funds if the payment account has sufficient funds, as cited above, the reference reads on the claim limitation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Kesack whose telephone number is (571)272-5882. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted,

Daniel Kesack
August 4, 2008
/D. K./
Examiner, Art Unit 3691

/Hani M. Kazimi/
Primary Examiner, Art Unit 3691

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